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Chapter Comm 14

FIRE PREVENTION

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Note: Chapter Ind 65 as it existed on April 30, 1989 was repealed and a new chapter ILHR 14 was created effective May 1, 1989; Chapter ILHR 14 as it existed on March 31, 1992 was repealed and a new chapter ILHR 14 was created effective April 1, 1992. Chapter ILHR 14 was renumbered to chapter Comm 14 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, December, 1996, No. 492. Chapter Comm 14 as it existed on June 30, 2002 was repealed and a new Chapter Comm 14 was created effective July 1, 2002. Chapter Comm 14 as it existed on February 29, 2008 was repealed and a new chapter Comm 14 was created effective March 1, 2008.

Subchapter I — Adoption and Application of NFPA® 1, Fire Code

Comm 14.001 Adoption and application. (1) NFPA 1.

(a) *Adoption of model fire code.* NFPA 1, *Fire Code*™ – 2009, subject to the modifications specified in this chapter, is hereby incorporated by reference into this chapter.

Note: A copy of NFPA 1, *Fire Code*, is on file in the offices of the Department and the Legislative Reference Bureau. Copies of NFPA 1, *Fire Code*, may be purchased from the National Fire Protection Association at 1 Batterymarch Park, Box 9101, Quincy, MA, 02269-9101; and may be purchased or accessed free of charge at www.nfpa.org.

(b) *Application of model fire code.* The use, operation and maintenance of public buildings and places of employment shall comply with NFPA 1 as referenced in par. (a), except as otherwise provided in this chapter.

(2) **ALTERNATE MODEL FIRE CODE.** Where a municipality has by ordinance adopted requirements of the *International Fire Code*® – 2009 and any additional requirements, that, in total, are equivalent to NFPA 1 as referenced in sub. (1), the department will not consider that ordinance to be in conflict with sub. (1); and property owners or managers, or employers, need only comply with that ordinance.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08; CR 09-104: am. (1) (a), (b), renum. (2) (a) to be (2) and am., r. (2) (b) Register December 2010 No. 660, eff. 1-1-11; correction in (1) (title) made under s. 13.92 (4) (b) 2., Stats., Register December 2010 No. 660.

Subchapter II — Modifications of NFPA 1, Fire Code

Note: The sections in this subchapter are generally numbered to correspond to the chapter and section numbering of NFPA 1, *Fire Code*; for example, section Comm 14.01 contains modifications of NFPA 1, chapter 1.

Comm 14.01 Administration. (1) SCOPE. These are department rules in addition to the requirements in NFPA 1 section 1.1:

(a) 1. This chapter applies to all public buildings and places of employment that exist on or after January 1, 2011, except as provided in pars. (b) to (d).

2. This chapter applies to the inspection, testing, and maintenance of all fire safety features as specified in this chapter, for all public buildings and places of employment that exist on or after January 1, 2011, except as provided in pars. (b) to (d).

Note: As established in section Comm 14.01 (2) (a) 1., this chapter does not prescribe how to design public buildings. However, this chapter includes requirements that may apply during the construction of a public building, such as the safeguards in NFPA 1 chapter 16 for fire safety during construction. See chapters Comm 61 to 66 for design requirements for public buildings and places of employment.

(b) This chapter does not apply to buildings or situations listed under the exclusions in s. 101.01 (11) and (12), Stats., or under the exemptions in s. 101.05, Stats.

Note: See Appendix for a reprint of the above-referenced sections of the Statutes.

(c) 1. This chapter does not apply to any of the buildings, structures, or situations specified in subds. 3. to 5.

2. All of the buildings, structures, or situations in subds. 3. to 9. are neither public buildings nor places of employment under this chapter.

3. a. Buildings or structures located on Indian reservation land that are held either in trust by the United States, or in fee by the tribe or a tribal member.

b. Buildings or structures which are located on off-reservation Indian land that is held in trust by the United States – and which are held either in trust by the United States, or in fee by the tribe or a tribal member.

4. Buildings and portions of buildings that are exempted by federal statutes or treaties.

5. Portions of buildings leased to the federal government provided all of the following conditions are met:

a. A statement is recorded with the register of deeds that describes the steps necessary for compliance to this chapter if the space is converted to a nonexempt use.

b. The statement recorded with the register of deeds is recorded in a manner that will permit the existence of the statement to be determined by reference to the property where the building is located.

c. The owner of the building submits a copy of the recorded document to the department or its authorized representative.

6. Buildings and structures that are on a farm premises and used exclusively for farming purposes, provided any use of the building or structure by the public consists only of consumers directly receiving farm commodities, substantially all of which have been planted or produced on the farm premises. In this application, “substantially all” means at least 90 percent of the commodities were planted or produced on the farm premises.

Note: As referenced in par. (b) and Note, see Appendix for a reprint of the exclusions referenced in section 101.01 (11) and (12) of the Statutes, which includes definitions of “farming” and “farm premises.”

7. A one- or 2-family dwelling used as a foster home, treatment foster home, or group home, or as a residential care center for children and youth that has a capacity for 8 or fewer children, all as defined in s. 48.02, Stats.

Note: The definitions in section 48.02 of the Statutes limit foster homes to no more than 4 children unless the children are siblings, limit treatment foster homes to no more than 4 children, and limit group homes to no more than 8 children. Where permitted by the Department of Children and Families, a group home or a residential care center for children and youth that has a capacity for 8 or fewer children may be located in a one- or 2-family dwelling as a community living arrangement, as defined in section 46.03 (22) of the Statutes.

8. A one- or 2-family dwelling in which a public or private day care center for 8 or fewer children is located.

Note: Chapter DCF 250, as administered by the Department of Children and Families, defines a “family child care center” as a being “a facility where a person provides care and supervision for less than 24 hours a day for at least 4 and not more than

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8 children who are not related to the provider.” Chapter DCF 250 applies various licensing and other requirements to these centers, including for fire protection and other aspects of the physical plant.

9. That portion of or space within a one- or 2-family dwelling in which a home occupation is located.

(d) In this section, “home occupation” means any business, profession, trade or employment conducted in a person’s dwelling unit, that may involve the person’s immediate family or household and a maximum of one other unrelated person, but does not involve any of the following:

1. Explosives, fireworks or repair of motor vehicles.
2. More than 25% of the habitable floor area of the dwelling unit.

(e) 1. The requirements in sub. (11) apply to all fire responses, rather than only to fire responses for public buildings and places of employment.

2. The requirements in sub. (13) (d) 2. apply to fire responses to first alarms for all buildings, rather than only for public buildings.

(f) Except for facilities that are exempted from this chapter under par. (c) 3. to 5. — and regardless of pars. (b), (c) 6. to 9. and (d) — this chapter applies to all facilities and structures which exist on or after January 1, 2011, and which involve flammable-, combustible- or hazardous-liquid storage, transfer, or dispensing.

Note: Chapter Comm 5 regulates persons or businesses that are required or permitted to obtain licenses, certifications or registrations under chapters 101, 145 or 167 of the statutes. Chapter Comm 5 states that no person may inspect a tank system which has held or will hold flammable, combustible or hazardous liquids to determine compliance with chapter Comm 10 unless the person holds a certification issued by the Department as a certified tank system inspector. Chapters Comm 5 and 10 do not preclude a fire inspector from conducting fire safety inspections involving flammable, combustible or hazardous liquids under chapter Comm 10; or from enforcing fire safety requirements under chapter Comm 14 or sections 101.14 (1) (a) or (b) or (2) of the statutes.

Note: In conjunction with addressing the quality and retail sales of petroleum products, chapter Comm 48 also regulates containers which have a capacity of under 275 gallons and which are used for storing gasoline or any other petroleum product that has a flash point of less than 100°F. Chapter Comm 48 requires these containers to be colored red and appropriately labeled, and prohibits using red containers for storing petroleum products that have a flash point of 100°F or more.

Note: See the annotations under section 101.11 of the Statutes for further guidance in determining which facilities are or are not places of employment.

(g) 1. Except for facilities that are exempted from this chapter under par. (c) 3. to 5. — and regardless of pars. (b), (c) 6. to 9. and (d) — the department or its deputies may apply this chapter to any building or other structure or premises or public thoroughfare, which exists on or after January 1, 2011, and which has either of the following characteristics:

- a. It is especially liable to fire and is so situated as to endanger other buildings or property.
- b. It contains combustible or explosive material or inflammable conditions that are dangerous to the safety of any building or premises or the occupants thereof, or endangering or hindering fire fighters in case of fire.

2. The purpose of applying this chapter under this paragraph is to cause correction of any of the following:

- a. A condition liable to cause damaging fire.
- b. A violation of any law or order relating to fire hazards or to the prevention of fire.

Note: See section 101.14 (1) (a) to (bm) of the Statutes for the authorization to apply this chapter in this manner, and for limitations on entry into the interior of private dwellings.

Note: Under section 101.14 (2) (a) of the Statutes, and as referenced in section Comm 14.01 (13) (a), “The chief of the fire department in every city, village, or town, except cities of the 1st class, is constituted a deputy of the department.”

Note: See section 66.0413 of the Statutes for (1) the authority of municipalities to order removal or repair of buildings that are dangerous, unsafe, unsanitary, or otherwise unfit for human habitation; and (2) extensive criteria relating to executing this authority, such as for dilapidated buildings.

Note: See chapter Comm 10 for orders of the Department relating to flammable or combustible liquids, and see chapter Comm 40 for orders of the Department relating to fuel gas systems.

(2) APPLICATION. (a) *General.* Substitute the following wording for the requirements in NFPA 1 sections 1.3.2.4. to 1.3.2.4.3:

1. The design requirements in NFPA 1 and in any standard or code adopted therein that apply to public buildings or places of employment are not included as part of this chapter, except as specified in subds. 3. a. and 4.

Note: Because of this subdivision, this chapter does not prescribe how to design public buildings. However, this chapter includes requirements that may apply during the construction of a public building, such as the safeguards in NFPA 1 chapter 16 for fire safety during construction. See chapters Comm 61 to 66 for design requirements for public buildings and places of employment.

2. The codes and standards that are referenced in this chapter, and any additional codes and standards which are subsequently referenced in those codes and standards, shall apply to the prescribed extent of each such reference, except as modified by this chapter.

3. a. The design requirements in NFPA 1 chapter 18 for fire department access and water supply are included as part of this chapter.

b. The requirements in NFPA 1 sections 18.2.3 and 18.3 do not apply to buildings constructed prior to January 1, 2011.

4. The design requirements in NFPA 1 sections 50.2.1.1 and 50.4 for an exhaust hood and an automatic fire suppression system are included as part of this chapter, for mobile kitchens only.

(b) *Conflicts.* Substitute the following wording for the requirements in NFPA 1 section 1.3.3:

1. Where any rule written by the department differs from a requirement within a document referenced in this chapter, the rule written by the department shall govern.

2. Where rules of the department specify conflicting requirements, types of materials, methods, processes or procedures, the most restrictive rule shall govern, except as provided in subds. 1., 3. and 4.

Note: If the most restrictive of two or more conflicting requirements is not readily apparent, a determination of which is more restrictive can be obtained from the Department.

3. Where a rule prescribes a general requirement and another rule prescribes a specific or more detailed requirement regarding the same subject, the specific or more detailed requirement shall govern, except as provided in subds. 1. and 4.

4. Where differences occur between the requirements of this chapter and ch. Comm 10, the requirements of ch. Comm 10 shall govern.

Note: See Appendix for a list of tanks, containers, tank systems, and facilities that are not regulated by chapter Comm 10.

(3) ALTERNATIVES. Substitute the following wording for the requirements in NFPA 1 section 1.4.1: Nothing in this chapter is intended to prohibit or discourage the design and use of new materials or components, or new processes, elements or systems, provided written approval from the department or AHJ is obtained first.

(4) PETITION FOR VARIANCE. Substitute the following wording for the requirements in NFPA 1 sections 1.4.2 to 1.4.6: The department shall consider and may grant a variance to a provision of this chapter in accordance with ch. Comm 3. The petition for variance shall include, where applicable, a position statement from the fire department having jurisdiction.

Note: Chapter Comm 3 requires the submittal of a petition for variance form (SBD-9890) and a fee, and that an equivalency is established in the petition for variance which meets the intent of the rule being petitioned. Chapter Comm 3 also requires the Department to process regular petitions within 30 business days and priority petitions within 10 business days. The SBD-9890 form is available in the Appendix or from the Department’s Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

Note: See chapter Comm 2 for the fee that must be included when submitting a petition for variance.

(5) TEMPORARY USE. These are department rules in addition to the requirements in NFPA 1 section 1.4: A fire code official may allow a building or a portion of a building to be used temporarily in a manner that differs from the approved use for the building or space, or may approve a temporary building to be used by the public, subject to all of the following provisions:

(a) The official shall determine the time frame within which the temporary use is permitted, based on the extent hazards are

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created by the temporary use. This time frame may not exceed 180 days, except the official may grant extensions for demonstrated cause.

(b) Buildings or spaces considered for temporary use shall conform to the requirements of this chapter as necessary to ensure the public safety, health, and general welfare, except as provided in par. (c).

(c) The official may require additional safety requirements for a temporary use as a trade-off for any safety provisions that may be lacking.

(d) The official may terminate the approval for a temporary use at any time and order immediate discontinuance of the use or complete evacuation of the building or space.

Note: The Department and other state agencies may have additional rules that affect the design, construction, inspection, maintenance, and use of public buildings, places of employment and premises, including chapters Comm 5, Credentials; Comm 7, Explosives and Fireworks; Comm 10, Flammable, Combustible and Hazardous Liquids; Comm 16, Electrical; Comm 18, Elevators, Escalators and Lift Devices; Comm 40, Gas Systems; Comm 41, Boilers and Pressure Vessels; Comm 43, Anhydrous Ammonia; Comm 45, Mechanical Refrigeration; Comm 61 to 66, Commercial Building Code; Comm 75 to 79, Buildings Constructed Prior to 1914; Comm 81 to 87, Plumbing; Comm 90, Public Swimming Pools and Water Attractions; and Comm 91, Sanitation. The Department's Safety and Buildings Division administers all of these listed codes except chapter Comm 5, which is jointly administered with the Department's Environmental and Regulatory Services Division, and chapter Comm 10, which is administered by that Division.

(6) INTERPRETATIONS. These are department rules in addition to the requirements in NFPA 1 section 1.7.3:

(a) *Department authority.* Any departmental interpretation of the requirements in this chapter or in the codes and standards that are adopted in this chapter shall supersede any differing interpretation by either a lower level jurisdiction or an issuer of the adopted code or standard.

(b) *Local ordinances.* 1. Pursuant to s. 101.02 (7), Stats., a city, village, town or local board of health may enact and enforce additional or more restrictive requirements for public buildings and places of employment, provided the requirements do not conflict with this chapter.

2. Nothing in this chapter affects the authority of a municipality or county to enact and enforce requirements for fire districts, land use, or zoning under ss. 59.69, 60.61, 60.62, 61.35, and 62.23 (7), Stats.

(7) EXCLUSIONS. (a) 1. The requirements in the following NFPA 1 sections are not included as part of this chapter: 1.7.10.2, 1.7.10.4, 1.9.1 to 1.9.3, and 1.10.

2. Any permit referenced in NFPA 1 section 1.12 or referred to elsewhere under this chapter is not required by this chapter, but may be required at the local level if done so through a local ordinance.

3. Any certificate of fitness referenced in NFPA 1 section 1.13 or referred to elsewhere under this chapter is not required by this chapter, but may be required at the local level if done so through a local ordinance.

(b) Any requirement which is specified in par. (a) and which is subsequently referred to elsewhere under this chapter is not included as part of this chapter.

(8) OWNER'S RESPONSIBILITY. This is a department rule in addition to the requirements in NFPA 1 chapter 1: The owner of each building, structure and premises shall be responsible for maintaining the property in compliance with this chapter. Compliance with this chapter does not relieve the owner of a public building or place of employment from compliance with the other administrative rules established by the department or other state agencies.

Note: Pursuant to section 101.11 (2) (a) of the Statutes, no employer or owner, or other person may hereafter construct or occupy or maintain any place of employment, or public building, that is not safe, nor prepare plans which fail to provide for making the same safe. See the annotations under section 101.11 (3) of the Statutes for substantial additional information relating to the duties of owners and employers to provide and maintain places of employment and public buildings that are safe.

Note: See Appendix for statutory penalties relating to interfering with fire fighting, and to false alarms.

(9) APPEALS. These are department rules in addition to the requirements in NFPA 1 chapter 1:

(a) *Appeal of Department Order.* Pursuant to s. 101.02 (6) (e), Stats., any person who owns or occupies a property that is affected by an order of the department may petition the department on the reasonableness of the order.

(b) *Appeal of local order.* Pursuant to s. 101.02 (7) (b), Stats., any person affected by a local order that is in conflict with an order of the department may petition the department for a hearing.

Note: See Appendix for a reprint of section 101.02 (7) (c) of the Statutes, which addresses the Department's response to a petition received under this paragraph; and for the definition of "local order," from section 101.02 (8) of the Statutes.

(10) REVOCATION OF APPROVAL. These are department rules in addition to the requirements in NFPA 1 chapter 1:

(a) *Department revocation.* The department may revoke any approval, issued under the provisions of this chapter, for any false statements or misrepresentation of facts on which the approval was based.

(b) *Local revocation.* The fire chief, or in first class cities the commissioner of building inspection, may revoke any local approval issued by them under the provisions of this chapter, for any false statements or misrepresentation of facts on which the approval was based. The fire chief, and in first class cities the commissioner of building inspection, may not revoke an approval issued by the department.

(11) FIRE INCIDENT REPORTS. Substitute the following wording for the requirements in NFPA 1 section 1.11.3.2:

(a) 1. For each fire, a record shall be compiled by a fire department serving the municipality in which the fire occurred.

2. The record in subd. 1. shall include all applicable information specified in s. 101.141 (2), Stats., shall be filed with the federal agency specified in s. 101.141 (1), Stats., and shall be filed no later than the deadline specified in s. 101.141 (1), Stats.

Note: Section 101.141 of the Statutes reads as follows: "**Record keeping of fires.** (1) Each city, village, and town fire department shall file a report for each fire that involves a building and that occurs within the boundaries of the city, village, or town with the U.S. fire administration for placement in the fire incident reporting system maintained by the U.S. fire administration. The report shall be filed within 60 days after the fire occurs.

(2) Each report filed under sub. (1) shall include all of the following information:

- (a) The age of the building.
- (b) The purpose for which the building was used at the time of the fire.
- (c) If the building was used as a home, whether the building was a multifamily dwelling complex, a single-family dwelling, or a mixed-use building with one or more dwelling units.
- (d) The number of dwelling units in the building, if the building was a multifamily dwelling complex or a mixed-use building.
- (e) Whether the building had an automatic fire sprinkler system at the time of the fire and, if so, whether the system was operational.
- (f) Whether the building had a fire alarm system at the time of the fire and, if so, whether the system was operational.
- (g) The cause of the fire.
- (gg) An estimate of the amount of damages to the building as a result of the fire.
- (gm) The number of human deaths due to the fire, if any.
- (gr) The number of human injuries due to the fire, if any.
- (h) Any other relevant information concerning the building, as determined by the fire department.

(3) The department may review, correct, and update any report filed by a fire department under this section."

(b) 1. In reporting the age of a building under par. (a), only the age of the portion of the building where the fire occurred is required, and this age may be estimated.

Note: Various software programs for reporting the information under this section may accommodate reporting a building's age only as a note in a narrative.

2. In reporting the amount of damages to a building under par. (a), either assessed values or expected replacement costs may be used, and either an estimated dollar loss or an estimated percentage of the building that is damaged may be used.

3. Prior to correcting or updating any report filed by a fire department under s. 101.141, Stats., the department shall obtain the consent of the chief of that fire department.

(12) PENALTIES. This is a department rule in addition to the requirements in NFPA 1 section 1.16: Penalties for violations of

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this chapter shall be assessed in accordance with s. 101.02 (12) and (13) (a), Stats.

Note: Section 101.02 (12) of the Statutes indicates that each day during which any person, persons, corporation or any officer, agent or employee thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

Section 101.02 (13) (a) of the Statutes indicates penalties will be assessed against any employer, employee, owner or other person who fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the Department, for which no penalty has been specifically provided, or who fails, neglects or refuses to comply with any lawful order made by the Department, or any judgment or decree made by any court in connection with sections 101.01 to 101.25 of the Statutes. For each such violation, failure or refusal, such employee, owner or other person must forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each violation.

(13) FIRE CHIEF AND FIRE DEPARTMENT DUTIES. These are department rules in addition to the requirements in NFPA 1 chapter 1:

(a) *Authorized deputy of the department.* The fire chief of the fire department in every city, village or town, except cities of the first class, is a duly authorized deputy of the department.

(b) *Fire prevention inspections.* 1. 'General.' The chief of the fire department shall be responsible for having all public buildings and places of employment within the territory of the fire department inspected for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to fire hazards or to the prevention of fires.

2. 'Determining the buildings that are to be inspected.' The fire chief shall be responsible for determining those public buildings and places of employment that are to be inspected, for each municipality for which the fire department has responsibility.

3. 'Scheduling of inspections.' Fire prevention inspections shall be conducted at least once in each non-overlapping 6-month period per calendar year, or more often if ordered by the fire chief, in all territory served by the fire department, except as provided in subds. 4. to 7.

Note: The Department of Health Services may require additional fire inspections for nursing homes.

4. 'Exception for first class cities.' In first class cities, the fire chief may establish the schedule of fire inspections. The fire chief shall base the frequency of the inspections on hazard classification, the proportion of public area, the record of fire code violations, the ratio of occupancy to size and any other factor the chief deems significant. Property other than residential property with 4 dwelling units or less shall be inspected at least once annually.

5. 'General exception for other municipalities.' Within the territory of each fire department, in each municipality other than first class cities, the following types of occupancies shall be inspected at least once per calendar year, provided the interval between those inspections does not exceed 15 months:

- a. Offices, outpatient clinics and dental clinics, if less than 3 stories in height.
- b. Unoccupied utility facilities, such as a water well facility, electric power substation and communication facility.
- c. Places of worship that do not have a rental hall, child day care facility or preschool to 12th grade instruction within the immediate church building.
- d. Buildings at colleges and universities, if used exclusively for classroom lecture or offices, provided there are no laboratories, chemical storage or industrial arts rooms in the building.
- e. Libraries, museums and art galleries.
- f. Hotels and motels, if less than 3 stories in height.
- g. Townhouses and rowhouses, if less than 3 stories in height.
- h. Residential condominiums and apartments, if there are less than 5 units under one roof.
- i. Convents and monasteries.
- j. Detention and correctional facilities.
- k. Garages used for storage only.

L. Pedestrian walkways and tunnels, membrane structures, open parking structures, outdoor theaters, assembly seating areas, greenhouses and mini-storage buildings. If interior access to mini-storage buildings cannot be obtained, an exterior inspection shall be conducted.

m. Vacant or unoccupied buildings. If interior access to vacant or unoccupied buildings cannot be obtained, an exterior inspection shall be conducted.

n. Confined spaces. An area that is identified by a sign as a permit-required confined space need not be internally inspected, but an exterior inspection shall be conducted.

o. Townhouses, rowhouses, residential condominiums and apartments with no common use areas. An exterior inspection of these occupancies shall be conducted.

p. Fully-sprinklered office buildings up to 60 feet in height.

q. Fully-sprinklered residential condominiums and apartments, if less than 3 stories in height.

r. Fully-sprinklered townhouses and rowhouses, if less than 4 stories in height.

Note: Fully-sprinklered buildings are protected throughout by an automatic fire sprinkler system as specified in NFPA 13 or 13R, as referenced in chapters Comm 61 to 66.

s. Seasonal or periodic occupancies, provided at least one interior inspection is conducted during an occupancy period and provided the occupancy does not extend beyond 6 months in any calendar year.

6. 'Discretionary exception for other municipalities.' a. For low-use buildings or places of employment, including those specified in subd. 6. b. to f., in lieu of the inspection frequency specified in subd. 3. or 5., the fire chief may base the frequency of the inspections on hazard classification, the proportion of public area, the record of fire code violations, the ratio of occupancy to size and any other factor the chief deems significant. Property other than residential property with 4 dwelling units or less shall be inspected at least once annually.

b. Seasonal occupancies.

c. Temporary-occupancy uses — such as farm structures temporarily used for winter storage, horse stables or riding arenas.

d. Home-occupation accessory buildings used as businesses.

e. Seldom or infrequently occupied buildings.

f. Unoccupied buildings.

Note: To reduce the potential for difficulties to arise during the audits addressed in section Comm 14.01 (15) (d), fire chiefs who exercise this discretion should either declare the corresponding buildings and inspection frequency in advance, or maintain a corresponding list of buildings to be inspected and their inspection frequency.

7. 'Local ordinances for reducing the frequency of inspections.' a. Where authorized by a local ordinance, a city, village or town may reduce the inspections required under subd. 3. to at least once per calendar year, provided the interval between those inspections does not exceed 15 months.

b. Any local ordinance adopted under subd. 7. a. shall be made available to the department during an audit conducted under sub. (14) (d).

c. Any special order granted by the department prior to January 1, 2011, that authorized a city, village, or town to reduce the number of required inspections shall expire by that date.

8. 'Inspection reports.' The fire chief shall make and keep on file reports of fire prevention inspections, except in first class cities the commissioner of the building inspection department shall make and keep the reports. For at least 7 years, the reports shall be maintained in written form or in another form capable of conversion into written form within a reasonable amount of time.

Note: The Department has developed fire inspection report forms that may be used by fire departments. The fire inspection report forms (SBD-10615A and SBD-5295) are available from the Safety and Buildings Division through one or more of the following means: in the Appendix; at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings forms.

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9. 'Inspectors.' Fire safety inspections shall be conducted by the department or deputy or an authorized representative of the deputy.

10. 'Statutory inspection authority.' The rules of this chapter do not limit or deny the ability of department deputies to conduct the activities under s. 101.14 (1) (a) and (b), Stats., for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to fire hazards or to the prevention of fire.

Note: Under section 101.14 (2) (a) of the Statutes, and as referenced in section Comm 14.01 (14) (a), "The chief of the fire department in every city, village, or town, except cities of the 1st class, is constituted a deputy of the department."

11. 'Fire inspector training.' All fire department personnel directly involved in conducting fire inspections are authorized by the department and by the fire chief to conduct the inspections upon completion of training approved by the fire chief.

(c) *Public fire education services.* Each fire department shall provide public fire education services within the territory served by the fire department. The services may be selected from the following public fire education-related activities, or may be other activities acceptable to the department:

1. 'Fire prevention week program.' Fire departments complete any combination of the following activities during national fire prevention week: children's poster contest; fire department open house; school visits to teach children fire safety; fire department fire safety demonstrations, including but not limited to fire fighting demonstrations, fire extinguisher and smoke detector demonstrations, stop, drop and roll demonstrations or an activity that specifically relates to a national fire prevention week theme.

2. 'Residential fire inspection program.' Fire departments advertise and conduct residential fire inspections on a request basis or in response to local ordinance.

3. 'Building plan review program.' Fire departments conduct plan reviews and approvals of fire safety related elements prior to construction of public buildings and places of employment.

4. 'School education program.' Fire departments conduct approved fire safety education programs in the school districts for which they have responsibility.

5. 'Continuing public fire education program.' Fire departments conduct public fire education programs, which may include monthly public service announcements for radio or television, monthly newspaper articles, booths at fairs, demonstrations at shopping centers, and billboards with fire safety messages.

6. 'Public fire education speaking bureau.' Fire departments organize a group of speakers to make public fire education presentations to civic organizations, professional organizations, school organizations and similar groups.

7. 'Youth fire awareness program.' Fire departments conduct youth fire awareness programs, including skill award and merit badge clinics for scouts, junior fire marshal program, juvenile fire setters program, first aid and CPR training and related activities.

8. 'Fire extinguisher training program.' Fire departments conduct training programs for the public or industry regarding the operation of fire extinguishers. Industrial fire brigade training programs may be conducted to complete this activity.

9. 'Occupancy inspection program.' Fire departments conduct inspections of public buildings and places of employment prior to the issuance of local occupancy permits. Written documentation of the inspections is kept by each fire department.

10. 'Smoke detector awareness program.' Fire departments conduct programs to inform people regarding the effectiveness and proper installation of smoke detectors in residential buildings, public buildings and places of employment.

(d) *Record keeping.* The following fire department dues entitlement records shall be generated and maintained by each fire department:

1. Current roster of active fire department members.

2. Time, date, location, and number of firefighters responding, excluding the chief, for each first alarm for a building. For any of these responses that are in combination with another fire department under a mutual aid agreement, the record under this paragraph shall include the name of that department and the number of firefighters, excluding the chief, responding from that department.

3. Number and duration of, and attendance at, fire department meetings, if the fire department is a volunteer fire department. For the purposes of this requirement, a volunteer fire department does not have any member who is paid for 36 hours or more of work, on a weekly basis.

4. Number and duration of, topic of and attendance at fire department training sessions.

5. Number, type, and duration of, and attendance of fire department members at, public fire education related activities.

(e) *Availability of records.* For at least 7 years, the records specified in par. (d) shall be maintained in written form or in another form capable of conversion into written form within a reasonable amount of time; and shall be made available to the department and to the public, upon request to the fire department.

Note: Section 19.32 (2) of the Statutes considers a record to be material containing written or electromagnetic information. The department will consider computer records to be equivalent to written reports.

(14) FIRE DEPARTMENT DUES. These are department rules in addition to the requirements in NFPA 1 chapter 1:

(a) *Eligibility.* 1. a. In order to be eligible to receive a fire department dues payment, a municipality shall be in substantial compliance with the requirements for fire protection and fire prevention services specified in ss. 101.14 (2) and 101.575, Stats., and this chapter, throughout the entire municipality.

b. The training program required under s. 101.575 (3) (a) 3., Stats., shall be in accordance with ch. Comm 30 for public sector fire departments and in accordance with 29 CFR 1910.156 for private sector fire departments.

2. a. Fire protection and fire prevention services shall be provided by the fire department, except as provided in subd. 2. b. A municipality not maintaining a fire department shall have the services provided through contract. A fire department may use mutual aid agreements as a means of providing fire protection services.

b. In first class cities, fire inspections may be provided by the neighborhood services department.

(b) *Compliance determination.* 1. 'General.' The department shall determine substantial compliance with the fire department dues entitlement program through the self-certification process specified in par. (c) and the audit process specified in par. (d).

2. 'Multiple fire departments.' Where a municipality is served by more than one fire department and any one of the fire departments is determined to be in noncompliance within that municipality, the entire municipality shall be determined to be in noncompliance.

3. 'Notice of noncompliance.' The department shall issue a notice of noncompliance to the municipality and the chief of the fire department that the department has determined to be in noncompliance. The determination shall be based on one or more of the following causes:

a. The municipality fails to return the self-certification form on time.

b. The municipality returns an incomplete self-certification form.

c. The municipality self-certifies noncompliance.

d. An audit results in failure.

(c) *Self-certification.* 1. A municipality shall annually complete and submit a fire department dues entitlement self-certification form for the previous calendar year. The certification shall

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be made on the form provided by the department and the form shall be returned to the department on or before April 1.

Note: The Department annually sends form SBD-10318 to the municipality. This form is also available from the Safety and Buildings Division through one or more of the following means: in the Appendix; at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

2. A municipality shall identify on the self-certification form the name of every fire department and the chief of the fire department that provided fire protection services and fire prevention services, to the municipality in the last calendar year. This identification shall be used to determine which fire departments are entitled to receive fire department dues from the municipality.

3. The chief of the fire department that provided the fire protection and fire prevention services and the clerk of the municipality shall sign the self-certification form and indicate whether or not the municipality is in substantial compliance with state regulations regarding the fire department dues entitlement program. In first class cities, the commissioner of the building inspection department shall also sign the self-certification form.

(d) *Audit.* 1. In addition to the self-certification process, the department shall periodically conduct audits of fire department dues entitlement records to determine substantial compliance with the fire department dues entitlement program for the previous calendar year.

2. The department shall periodically examine fire department dues entitlement records, including the records required in sub. (13) (b) 8. and (d), and in NFPA 1 section 1.11.2, to verify that the required fire prevention and fire protection services were provided within the territory served by the fire department and, within first class cities, by the building inspection department.

Note: The information required in the entitlement records is as specified in sections 101.14 (2) and 101.575 of the Statutes. Under those sections, the fire incident reports that are addressed in subsection (11), and any records of fire prevention inspections beyond public buildings and places of employment, are not fire dues entitlement records.

3. The department shall write a report summarizing the results of each audit.

(e) *Appeals of audit determinations.* 1. A department audit determination under this subsection may be appealed only in accordance with this paragraph or ch. 227, Stats.

2. 'Filing an appeal.' a. The appeal shall be filed in writing, with the department.

b. An appeal may be filed only by either a fire department that fails an audit conducted under par. (d), or by a municipality served by that fire department.

3. 'Timing of an appeal.' An appeal may only be filed after the department issues a written determination of failure, but no later than 30 business days after that issuance. If no appeal is received by the department within that time period, the initial determination of failure shall become effective.

4. 'Processing an appeal.' The department shall forward the appeal to the appeals board established under subd. 5.

5. 'Appeals board.' The department shall appoint an appeals board comprised of the following members: a volunteer fire chief, a paid fire chief, a fire inspector, a volunteer firefighter, a paid firefighter, a representative of the League of Wisconsin Municipalities, and a representative of the Wisconsin Towns Association.

6. 'Support staff and resources.' The department shall provide support staff and other resources needed for the functions of the appeals board.

7. 'New information.' New information submitted with an appeal may result in remanding the appeal back to a lower level.

8. 'Hearing.' If requested by the appellant, the board shall allow oral testimony in addition to the written material filed under subd. 2. a. Any oral testimony shall be presented either through a teleconference or at a hearing location determined by the department.

9. 'Determinations of the board.' a. Four members of the board shall constitute a quorum. For the purpose of conducting business, a majority vote of the entire board, excluding any vacant positions, is required.

b. Findings of the appeals board shall be forwarded to the secretary of the department no later than 30 business days after the department receives the appeal, unless a later deadline is agreed upon by both the appellant and the appeals board.

10. 'Decision by the secretary.' No later than 30 days after receipt of the findings of the appeals board, the secretary of the department shall consider the findings and, in writing, either uphold or overturn the department's initial determination of failure.

11. 'Completion of the appeal process.' Any appeal filed under this paragraph shall progress through subd. 10. no later than August 1 in the year the appeal is filed, unless withdrawn by the appellant.

12. 'Appeal of the secretary's decision.' A secretary decision under this paragraph may be appealed only through the contested-case provisions in ch. 227, Stats.

(f) *Fire department registration.* 1. A fire department that provides fire prevention and fire protection services to a municipality shall register with the department on the form provided by the department.

Note: The Department annually sends form SBD-10638 to the fire department. This form is also available from the Safety and Buildings Division through one or more of the following means: in the Appendix; at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

2. The fire chief of a registered fire department shall annually submit a completed fire department annual update form, provided by the department, to the department by February 1.

Note: The Department annually sends form SBD-10114 to the fire department. This form is also available from the Safety and Buildings Division through one or more of the following means: in the Appendix; at P.O. Box 7839, Madison, WI 53707-7839; or at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08; CR 09-104: renum. (1) (a), (1) (c) (intro.) to 7., (2) (intro.), (a) 1. b., 2. to 4., (2) (c) to (f), (3), (4), (6) to (10), (11) (title), (intro.), (a), (b) (title), 1. to 5., 6. to 10., (c) to (e), (12) to be (1) (a) 1., (c) 1. and 3. to 9., (2) (a) (intro.), (1) (a) 2., (2) (a) 1. to 3., (6) (a), (b), (3), (5) (intro.) to (d), (4), (7) to (12), (13) (title), (intro.), (a), (b) (title), 1. to 5., 7. to 11., (c) to (e), (14), and am., cr. (1) (c) 2., (g), (2) (a) 4., (b) (intro.), (6) (title), (intro.), (11) (a), (b), (13) (b) 6., am. (1) (e), (f), r. (2) (a) 1. (intro.), a., (5), (9), (a), (b) Register December 2010 No. 660, eff. 1-1-11; correction in (13) (b) 7. c. made under s. 13.92 (4) (b) 14., Stats., Register January 2011 No. 661.

Comm 14.03 Definitions. (1) These are department definitions for this chapter in addition to the definitions in NFPA 1 chapter 3:

(a) 1. "Administrative expenses," for the appropriation under s. 20.143 (3) (La), Stats., means expenditures for the direct costs and indirect costs of administering ss. 101.14, 101.141 and 101.573, Stats.

2. In this subsection:

a. "Direct costs" means the cost of salaries, limited term employees, fringe benefits and supplies to administer ss. 101.14, 101.141 and 101.573, Stats.

b. "Indirect costs" means the cost, determined on a pro rata basis, of management and administrative services provided to administer ss. 101.14, 101.141 and 101.573, Stats.

c. "Supplies" means equipment, memberships, postage, printing, rent, subscriptions, telecommunications, travel, utilities and similar outfitting and services, directly related to administering ss. 101.14, 101.141 and 101.573, Stats.

(b) "Department" means the department of commerce.

(c) "Fire chief" means the chief or authorized representative of the fire department serving the unit of government having authority over the public building or place of employment. Fire chief also means the representative designated by the local unit of government to carry out the duties of this chapter.

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(d) "Fire department" means a municipal fire department, public safety department, or public or private organization, such as a fire association, fire district, fire company or fire corporation, organized or created for the purpose of extinguishing fires and preventing fire hazards.

(e) "Municipality" means a city, village or town.

(f) "NFPA 1" means the 2009 edition of NFPA 1, *Fire Code*, as adopted and modified in this chapter.

(g) "Place of employment" has the meaning as defined in s. 101.01 (11), Stats.

Note: See Appendix for a reprint of section 101.01 (11) of the Statutes.

(h) "Public building" has the meaning as defined in s. 101.01 (12), Stats.

Note: See Appendix for a reprint of section 101.01 (12) of the Statutes.

(i) "Substantial compliance," for the purposes of s. 101.575 (4) (a) 1. and 2., Stats., means an ample amount of the required activity was performed through a concerted effort aimed at total compliance. A determination of substantial compliance is obtained through a common-sense approach to evaluating whether enough effort was made to comply with the applicable statute or code requirements. Substantial compliance is not a specific number or percent of compliance. A determination of substantial compliance in any one year or regulatory standard does not mean that the same amount of compliance or effort in the following year or in another area of the code automatically equals substantial compliance.

Note: Under section 101.575 (4) (a) 1. of the Statutes, the Department may not pay fire department dues to a city, village, town or fire department, unless the Department determines that the city, village, town or fire department is in substantial compliance with sections 101.575 (6) and 101.14 (2) of the Statutes.

(2) Substitute the following definition for the definition in NFPA 1 section 3.3.170.20: "One- and 2-family dwelling" has the meaning as defined for dwelling in s. 101.61 (1), Stats.

Note: Section 101.61 (1) of the Statutes reads as follows: "'Dwelling' means any building that contains one or 2 dwelling units. 'Dwelling unit' means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others."

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08; CR 09-104: renum. (intro.), (1) to (6), (8) to (10), (7) to be (1) (intro.), (a) to (i), (2) and am. Register December 2010 No. 660, eff. 1-1-11.

Comm 14.10 General fire safety. (1) NFPA 101® LIFE SAFETY CODE®. This is a department informational note to be used under NFPA 1 section 10.1.2:

Note: Under section Comm 14.01 (2) (a) 1., the design requirements that are included in NFPA 1, *Fire Code*, either directly, or indirectly through cross-references to other standards and codes such as NFPA 101, are not included as part of this chapter, except as provided in sections Comm 14.01 (2) (a) 3. a. and 4.

(2) **EMERGENCY PLANS.** Substitute the following wording for the requirements in NFPA 1 section 10.9.2.3: Where required by the AHJ, emergency plans shall be submitted to the AHJ for review.

Note: The Department of Health Services may have additional rules requiring nursing home operators to have emergency plans that are reviewed by fire departments or other fire and safety experts.

(3) **CHRISTMAS TREES.** This is a department informational note to be used under NFPA 1 section 10.14:

Note: Guidance on use of natural-cut Christmas trees is available at the Department's Web site at www.commerce.wi.gov, through links to the Fire Prevention program in the Safety and Buildings Division.

(4) **OUTSIDE STORAGE.** This is a department informational note to be used under NFPA 1 section 10.16:

Note: See Appendix for related explanatory material.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08; CR 09-104: renum. (2) to be (4), cr. (2), (3) Register December 2010 No. 660, eff. 1-1-11.

Comm 14.11 Portable unvented heaters. This is a department rule in addition to the requirements in NFPA 1 section 11.5: Portable, fuel-fired, unvented heating appliances are prohibited — except during construction or demolition of a building, provided adequate ventilation is supplied.

Note: See chapters Comm 61 to 66 for requirements for other heating appliances.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.13 Fire protection systems. (1) INSPECTION, TESTING AND MAINTENANCE OF CROSS CONNECTION CONTROL DEVICES. This is a department rule in addition to the requirements in NFPA 1 sections 13.3 to 13.5: All cross connection control devices installed in water-based fire protection systems shall be inspected, tested and maintained in accordance with this chapter and ch. Comm 82.

(2) **CREDENTIALS FOR TESTERS OF FIRE SPRINKLER SYSTEMS.** This is a department informational note to be used under NFPA 1 section 13.3.3:

Note: Chapter Comm 5 contains credential requirements for testers of fire sprinkler systems. That chapter and this chapter do not preclude non-credentialed individuals from conducting the daily, weekly, monthly, quarterly or semiannual inspection and testing activities for automatic fire sprinkler systems required under NFPA 25 and NFPA 72.

(3) **MAINTENANCE OF SMOKE DETECTORS AND ALARMS.** These are department informational notes to be used under NFPA 1 section 13.7.4.6:

Note: [1] Section 101.145 (3) (b) and (c) of the Statutes address maintenance of smoke detectors in residential buildings and read as follows: Section 101.145 (3) (b) "The owner of a residential building shall maintain any such smoke detector that is located in a common area of that residential building."

(c) "The occupant of a unit in a residential building shall maintain any smoke detector in that unit, except that if an occupant who is not an owner, or a state, county, city, village or town officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that a smoke detector in the unit is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional."

Note: [2] Under ch. Comm 66, all smoke alarms must be replaced by the end of the service period specified by their manufacturer, and a replacement alarm that uses a battery as the primary power source must have a non-replaceable, non-removable battery which is capable of powering the alarm for at least ten years.

(4) **MANUAL WET SPRINKLER SYSTEMS.** This is a department rule in addition to the requirements in NFPA 1 section 13.8: Inspection, testing and maintenance of manual wet sprinkler systems shall comply with all of the requirements of NFPA 25, for an automatic fire sprinkler system, except that the main drain test specified in NFPA 25 is not required.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08; CR 10-103: am. (3) (title), (intro.) and (4) Register August 2011 No. 668, eff. 9-1-11.

Comm 14.16 Hose threads during construction. These are department informational notes to be used under NFPA 1 section 16.4.3.3.2.6:

Note: Section 213.15 of the Statutes regulates fire hose threads and fittings and reads as follows: "All fire hose fittings, apparatus fittings, 1.5 and 2.5 inches in diameter purchased or procured by a fire department or fire company shall be of the national standard hose thread as adopted by the national fire protection association. No fire department shall utilize hose and equipment not in conformance with the requirement that all threads shall be national standard hose thread as adopted by the national fire protection association. Any person offering for sale nonstandard hose couplings, fittings or apparatus fittings may be fined not less than \$100 nor more than \$500."

Note: NFPA 1963 contains the specifications for national standard hose thread.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.20 Open flame devices and pyrotechnics. Substitute the following wording for the introductory paragraph in NFPA 1 section 20.1.5.3: No open flame devices or pyrotechnic devices may be used in any occupancy, unless otherwise permitted by the following:

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08; CR 09-104: am Register December 2010 No. 660, eff. 1-1-11.

Comm 14.27 Manufactured home and recreational vehicle sites. The requirements in NFPA 1 chapter 27 are not included as part of this chapter.

Note: See chapter Comm 26 for requirements for manufactured home communities.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.

Comm 14.34 General storage. The requirements in NFPA 1 section 34.1.1.2 (1) are not included as part of this chapter.

History: CR 09-104: cr. Register December 2010 No. 660, eff. 1-1-11.

Comm 14.50 Commercial cooking equipment for mobile kitchens. This is a department exception to the requirements in NFPA 1 sections 50.2.1.1 and 50.4: Neither an exhaust

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hood nor an automatic fire suppression system is required for a mobile kitchen where all of the following conditions are met:

(1) The kitchen is less than 365 square feet in size.

(2) The kitchen is used on fewer than 12 days in a calendar year, for the purpose of cooking.

(3) The owner or operator of the kitchen maintains a record demonstrating compliance with sub. (2), retains the record with the kitchen, and makes the record available to an inspector upon request.

Note: A Department form that can be used in complying with the recordkeeping requirements in this section is available at the Department's Web site at www.commerce.wi.gov, through links to Safety and Buildings Division forms.

History: CR 09-104: cr. Register December 2010 No. 660, eff. 1-1-11.

Comm 14.53 Mechanical refrigeration. The requirements in NFPA 1 chapter 53 are not included as part of this chapter.

Note: See chapter Comm 45 for requirements for mechanical refrigeration.

History: CR 09-104: cr. Register December 2010 No. 660, eff. 1-1-11.

Comm 14.65 Explosives, fireworks and model rocketry. (1) ENFORCEMENT. This is a department informational note to be used under NFPA 495 section 1.6, as referenced in NFPA 1 section 65.9.1:

Note: Any inspections by fire inspectors do not substitute for the Department's licensing and permitting of the facilities that are regulated under this section and chapter Comm 7.

(2) **MIXING PLANT OPERATION.** These are department rules in addition to the requirements in NFPA 495 section 5.2.8 as referenced in NFPA 1 section 65.9.1:

(a) *Personnel limitations.* Only persons essential to the mixing and packaging operations shall be allowed in the mixing and packaging area at any one time.

(b) *Production limitations.* No more than one day's production of blasting agent shall be permitted in the mixing and packaging area at any one time.

(c) *Labeling.* All cartridges, bags or other containers of blasting agents shall be labeled to indicate their contents. Ammonium nitrate bags may not be re-used as containers for blasting agents unless they are clearly relabeled so that no mistake can be made regarding their contents.

(3) **MAGAZINE INSPECTION.** Substitute the following wording for the requirements in NFPA 495 section 8.7.2 as referenced in NFPA 1 section 65.9.1: All magazines containing explosive materials shall be opened and inspected at maximum intervals of 7 days to determine whether there has been unauthorized or attempted entry into the magazines or whether there has been unauthorized removal of the magazines or their contents.

(4) **USE OF EXPLOSIVE MATERIALS.** The requirements in NFPA 495 chapters 10 and 11 as referenced in NFPA 1 section 65.9.1 are not included as part of this chapter.

Note: See chapter Comm 7 for requirements relating to the use of explosive materials.

History: CR 06-120: cr. Register February 2008 No. 626, eff. 3-1-08.